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State of Montana



June 1990

Report to the Legislature

Performance Audit Report

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Motor Vehicle Recycling and Disposal Program

Department of Health and Environmental Sciences

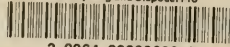
This report contains recommendations for improvements to program operations. The recommendations address:

- Program enforcement activity.
- Clarification of state and county level responsibilities.

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PERFORMANCE AUDITS

Performance audits conducted by the Office of the Legislative Auditor are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy. In performing the audit work, the audit staff uses audit standards set forth by the United States General Accounting Office.

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Office of the Legislative Auditor

Performance Audit

Motor Vehicle Recycling and Disposal Program

Members of the audit staff involved in this audit were Dave Gould, manager, and Lisa Blanford, in-charge auditor.



STATE OF MONTANA
Office of the Legislative Auditor

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June 1990

The Legislative Audit Committee
of the Montana State Legislature:

We conducted a performance audit of the Montana Motor Vehicle Recycling and Disposal Program of the Department of Health and Environmental Sciences, commonly referred to as the Junk Vehicle Program. This report contains recommendations concerning program operations at the state and county levels.

We wish to express our appreciation to the Department of Health and Environmental Sciences and to county program staff for their cooperation and assistance.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Scott A. Seacat", with a long, sweeping horizontal line extending to the right.

Scott A. Seacat
Legislative Auditor

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Appointed and Administrative Officials

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Duane Robertson, Bureau Chief
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Report Summary

Introduction

Our performance audit concentrated on the Motor Vehicle Recycling and Disposal Program, commonly referred to as the Junk Vehicle Program. The Department of Health and Environmental Sciences administers the program with both state and county level personnel responsible for operations. The audit focused on program administration and responsibilities, and activities pertaining to recycling, enforcement, and monitoring of junk vehicles.

Our audit recommends improvements in the administration and operation of the program. In addition, the review indicated enforcement activities have shown little improvement since our office conducted a performance audit survey of the Solid Waste Management Bureau in 1983. Corrective action by the Department of Health and Environmental Sciences should improve overall effectiveness of the Junk Vehicle Program. The following sections summarize the results of our performance audit.

Program History

The 1973 Montana Legislature enacted the Montana Motor Vehicle Recycling and Disposal Act. The act mandates establishment of county motor vehicle graveyards and provides for collection of junk vehicles. In addition, it requires all motor vehicle wrecking facilities and county motor vehicle graveyards to be screened from public view and to maintain inventory records. Wrecking facilities and motor vehicle graveyards must also be licensed to legally operate.

County Recycling and Enforcement Activity

Counties are primarily responsible for the collection and recycling of approximately 8,000 junk vehicles annually. Our audit identified areas where improvements should be made. Implementation of audit recommendations would enhance the provision of these services.

Report Summary

Noncompliance at County Motor Vehicle Graveyards

County motor vehicle graveyards are required to comply with shielding and records maintenance requirements. Concerns with inadequate shielding and records maintenance were identified during our audit. The department could better enforce county motor vehicle graveyard compliance through the program budget approval process.

Inventory Controls Could Be Improved

The department relies on three controls to record and monitor junk vehicles which are collected by the counties. These controls are: 1) a release of ownership form and/or title for the vehicle; 2) a motor vehicle graveyard log sheet; and 3) an inventory identification number. We found controls over junk vehicles collected through the program need improvement. The concerns identified could be addressed by the development and distribution of documented procedures regarding junk vehicle inventory methodology.

Revise Crushing Contract Specifications

The department oversees contracts for the disposal of junk vehicles collected at county motor vehicle graveyards. Our review found improvements could be made in the bid methodology used for contracts. The department should revise contract specifications and procedures to ensure the State is reimbursed for all recycled vehicles.

Wrecking Facility Monitoring and Enforcement

The department is primarily responsible for monitoring motor vehicle wrecking facilities to determine compliance with statutes and administrative rules. Our audit identified areas for improvement in enforcement procedures conducted by department and county staff. Implementation of audit recommendations should enhance enforcement methodology and result in improved motor vehicle wrecking facility compliance.

Motor Vehicle Wrecking Facility Monitoring and Enforcement

Motor vehicle wrecking facilities (MVWF) are required to comply with statutes in three main areas: 1) facility shielding; 2) maintaining inventory records of vehicles at the facility; and 3) submission to the Department of Justice of quarterly reports of vehicles purchased.

During the audit we reviewed wrecking facility compliance with applicable statutes and administrative rules to determine the effectiveness of department monitoring and enforcement activities. Our inspections identified significant noncompliance. We found 80 percent of inspected wrecking facilities were not in compliance with shielding requirements. In addition, inspections revealed 50 percent of the inspected facilities were not in compliance with vehicle inventory records maintenance and reporting requirements. Department records also indicate non-compliance by motor vehicle wrecking facilities in these same areas.

Given the extent of wrecking facility noncompliance, it is apparent department monitoring and enforcement of wrecking facilities could be improved. Limited monitoring and enforcement is due to a combination of related factors. These factors are discussed in the following sections.

Clarification of MVWF Monitoring and Enforcement Responsibility Needed

As part of enforcement activities, department staff inspect each wrecking facility once every two years on the average. Department staff are limited in the amount of field visits conducted. The department relies, to a certain extent, on county level staff to supplement the monitoring of wrecking facilities.

However, the amount of monitoring and enforcement activity varies among the counties. County staff are unclear as to the statutory authority of the counties to monitor wrecking facility activities and enforce compliance with licensing provisions.

Report Summary

Statutes relating to county responsibilities are general and vague. Without assistance from county staff it is difficult for department staff to adequately monitor and enforce wrecking facility regulations. The department should seek clarification of current statutes to determine the specific functions and duties of both the state and counties under the Montana Motor Vehicle Recycling and Disposal Act.

Department Enforcement Controls Could be Improved

The department uses "passive" enforcement procedures. Staff use persuasion rather than strict enforcement to bring facilities into compliance. Facilities are allowed many opportunities to correct identified deficiencies. Department denial or revocation of a license, and assessment of penalties are used only as a last resort. As a result, numerous enforcement cases against wrecking facilities have been continuing for years.

In addition, we found department files indicate staff do not always conduct follow-up activity to ensure compliance with or resolution of identified concerns. Forty percent of files reviewed did not document action taken to follow-up on identified compliance concerns. Records also indicated department inspections of wrecking facilities are not conducted on a timely basis. In addition, we found department procedures for recording enforcement activity should be improved.

The department needs to increase staff enforcement activity and utilize statutory enforcement provisions. The department should also establish controls to ensure wrecking facility compliance concerns are identified, monitored, and resolved. In addition, program officials should place a high priority on implementing a data processing system to document wrecking facility enforcement and compliance status.

Revise Department Licensing Procedures

Current department licensing practices contribute to continued noncompliance by motor vehicle wrecking facilities. Our review indicated department licensing procedures could be revised in

order to ensure timely wrecking facility compliance. The department should implement administrative rules to allow for the issuance of probationary wrecking facility licenses.

Communicate Enforcement Status with Counties

Communication of state information pertaining to motor vehicle wrecking facility monitoring, enforcement, and licensing could be improved. Counties are not routinely informed of the status of department enforcement activity against wrecking facilities which are not in compliance with licensing requirements. The department should develop a report to provide data to counties on wrecking facility enforcement status on a regular basis. This would facilitate assistance by county program staff in monitoring wrecking facility compliance.

Program Administration

We reviewed program funding, management controls, and the regulation of sites containing less than four junk vehicles. We estimate the Junk Vehicle Account fund balance is adequate to maintain program expenditures through fiscal year 1992-93. The department is required to prepare a statutorily mandated overview of the program's fiscal and operational status for each legislature. This issue should be addressed when that report is presented. In addition, we identified areas where program effectiveness could be improved through additional management controls and clarification of statutes.

Management Controls

We identified several areas where management controls could be improved including program goals and objectives, policies and procedures, training of county program staff, and inspections of county motor vehicle graveyards. Implementation of these recommendations would provide direction for staff and assist with meeting program intent. In addition, improved management controls would ensure compliance with statutes and administrative rules.

Report Summary

Conflict Between Statutes and Administrative Rules

There is a conflict between statutes and administrative rules in the area of Junk Vehicle Program enforcement activity for sites containing junk vehicles in locations other than motor vehicle wrecking facilities or county motor vehicle graveyards. Current statutory authority regarding the control of junk vehicles does not address junk vehicles outside of wrecking facilities and county motor vehicle graveyards. However, the administrative rules attempt to provide control over one to three junk vehicles in one location.

The lack of clear statutory authority has limited county program enforcement of sites containing less than four junk vehicles in some counties. Junk vehicle requirements are being enforced and violations prosecuted in some counties and not in others. Some county attorneys are reluctant to enforce provisions of the administrative rules pertaining to these junk vehicles. We also found county commissioners direct county program staff not to enforce rules pertaining to junk vehicles in four of the counties visited.

While administrative rule provisions are being effectively used and enforced in some counties they are not in other counties. If the department and counties are to regulate less than four junk vehicles at one location, clear statutory authority is needed. Clarification would provide the department and counties with specific authority and responsibility to control these junk vehicles. The department should seek legislative clarification of provisions pertaining to regulation of less than four junk vehicles in one location.

Chapter I

Introduction

Audit Objectives

The Legislative Audit Committee requested a performance audit of the Motor Vehicle Recycling and Disposal Program, commonly referred to as the Junk Vehicle Program. The Department of Health and Environmental Sciences (DHES) administers the program with both department and county level personnel responsible for operations. This report addresses our review of program operations at the state and county levels.

The objectives of the performance audit were to:

1. Evaluate administration of the program including department and county procedures and responsibilities.
2. Review management controls related to program operations.
3. Assess adequacy of program funding.
4. Analyze procedures and controls for enforcement of statutes and administrative rules pertaining to junk vehicles.
5. Review the process to collect and dispose of junk vehicles and conclude on effectiveness of recycling efforts.

Scope of Audit

We examined current operations of the Junk Vehicle Program. We reviewed department files for fiscal years 1985-86 through 1989-90. We also visited county programs. We gathered input from department and county staff pertaining to overall program methodology and assessed procedures regarding control of junk vehicles and regulation of wrecking facilities. In addition, we examined procedures and controls used to enforce statutes and administrative rules pertaining to junk vehicles. We inspected motor vehicle wrecking facilities and county motor vehicle graveyards to determine compliance and adequacy of program monitoring and enforcement activities. Although the audit did not directly address county expenditures of junk vehicle funds, state controls over county use of funds were reviewed.

Chapter I

Introduction

The audit also examined the process used to identify, collect, and dispose of junk vehicles. We examined procedures for documenting junk vehicles collected and for awarding service contracts for the purchase and disposal of these vehicles. In addition, we assessed the effectiveness of recycling efforts by analyzing available motor vehicle recycling data.

The audit was conducted in accordance with government auditing standards for performance audits.

Compliance

We reviewed program compliance with statutes and administrative rules relating to the control, disposal, and recycling of junk vehicles. The department is in compliance with recycling aspects of the program. However, we noted noncompliance in the areas of motor vehicle wrecking facilities and county motor vehicle graveyards. Specific instances of noncompliance are discussed in Chapters III and IV. Given the extent of the noncompliance, it appears this aspect of the program needs improvement to meet legislative intent in controlling motor vehicle wrecking facilities and county motor vehicle graveyards. Another compliance area relates to implementation of administrative rules regarding reuse and restoration of junk vehicles. This issue is discussed in the following section.

Legislative Clarification Needed for Reuse and Restoration of Junk Vehicles

Legislation enacted during the 1989 legislative session requires the department to adopt rules pertaining to reuse and restoration of junk vehicles. Section 75-10-503(2), MCA, requires the rules be adopted no later than July 1, 1990. The intent of the legislation is to provide for use and restoration of junk vehicles and increase program revenue.

During the department's process of finalizing the proposed rules, a number of concerns arose regarding statutory language authorizing rule development. Department officials state the statute is not specific in a number of areas including: the responsibilities of the counties; the disposition of the sale proceeds; authority of counties to sell state property; and the limitation of

the rights to purchase these vehicles. The department intends to seek legislative clarification in these areas prior to implementation of the rules. As a result, the department will not meet the adoption date of July 1, 1990.

Management Memorandums

During our audit we asked DHES for written responses to selected audit issues and recommendations. In addition, we issued management memorandums to department officials on issues which were less significant. The issues were:

- Position Descriptions - Need to update employee position descriptions.
- County Junk Vehicle Fee Collection - Inconsistencies in junk vehicle fee proration were evident at five counties that were contacted. Department staff have begun to review county collection procedures to ensure accuracy.
- Monitoring Closed Wrecking Facilities - Department staff do not routinely monitor closed wrecking facilities to ensure illegal operations do not occur. As a result, there are unlicensed facilities in operation of which staff are unaware. Two unlicensed facilities were noted during the audit. The department should adopt procedures to ensure periodic monitoring occurs.

Previous Audit Work

In 1983, our office conducted a performance audit survey of the Solid Waste Management Bureau of DHES. This included a review of the Junk Vehicle Program. Bureau licensing, inspection, and enforcement activities were examined. Areas were identified where waste management activities could have been improved. Areas included enforcement activities, program policies and procedures, and allocation of department expenditures. An audit was not recommended at that time because the department was aware of identified issues and indicated it would take corrective measures. However, our current audit indicates enforcement activities show little improvement since 1983 and there is still a need for program policies and procedures.

Chapter II

Program Background

Introduction

This chapter provides an overview of the Junk Vehicle Program administered by DHES. The program is part of the Environmental Sciences Division, Solid and Hazardous Waste Bureau.

Program History

The 1973 Montana Legislature enacted the Montana Motor Vehicle Recycling and Disposal Act. The act mandates establishment of county motor vehicle graveyards and provides for collection of junk vehicles. In addition, it requires all motor vehicle wrecking facilities and county motor vehicle graveyards to be screened from public view. Wrecking facilities and motor vehicle graveyards must also be licensed to operate.

The intent of the program is to improve the aesthetics of Montana through the control of junk vehicles and their component parts. The program also seeks to conserve natural resources through recycling of junk vehicles. Prior to the establishment of the program, junk vehicles presented a disposal problem to municipal solid waste landfill sites. In addition, there were no uniform regulations pertaining to shielding of motor vehicle wrecking facilities.

The program remains substantially unchanged since its inception. However, in 1989 legislation was enacted requiring DHES to adopt rules pertaining to reuse and restoration of junk vehicles.

Department Responsibilities

The Department of Health and Environmental Sciences is responsible for overall administration of the Junk Vehicle Program. Revenue generated by the program is administered by the department. The department allocates funds to the counties and reviews county program expenditures. The department is responsible for licensing motor vehicle wrecking facilities and county motor vehicle graveyards and for enforcing the provisions pertaining to operation of these facilities. There are currently 221 licensed motor vehicle wrecking facilities and 57

Chapter II

Program Background

county operated motor vehicle graveyards. Some of the large counties have two graveyards and six counties share a motor vehicle graveyard. In addition, department staff monitor automotive waste disposal practices at these facilities. The department also administers contracts for the sale of junk vehicles to recycling firms. Recycling firms purchase and process scrap metal for recycling.

Department staff conduct inspections in order to monitor compliance of wrecking facilities. Shielding and records maintenance are examined during these inspections. Department staff conducted 15 inspections of wrecking facilities from July 1989 through May 1990. Sixty-seven inspections were conducted during fiscal year 1988-89, and 34 inspections were conducted in fiscal year 1987-88.

County Responsibilities

All 56 counties participate in the Junk Vehicle Program. Counties are responsible for establishing and operating a motor vehicle graveyard where junk vehicles are collected for recycling. Junk vehicle collection services are provided by either county staff or private contractors. Counties also conduct some enforcement of statutes and administrative rules pertaining to junk vehicles. Montana law allows counties to consolidate to form a district for the purpose of establishing and operating a junk vehicle program. Currently, nine counties have consolidated into two districts.

Enforcing the provisions pertaining to junk vehicles involves field visits, correspondence, and telephone calls. During fiscal year 1988-89, 3,554 documented contacts were made by county staff. During fiscal year 1987-88, 5,024 documented contacts were made. These numbers include multiple contacts to given facilities or individuals. In addition, county staff assist the department with inspections of wrecking facilities. County staff conducted 158 inspections of facilities from July 1989 through May 1990. One-hundred-thirty inspections were conducted during fiscal year 1988-89, and 138 were conducted during fiscal year 1987-88.

Program Staffing

The department currently has 4.59 full-time equivalent (FTE) positions funded through the Junk Vehicle Account of which 2.5 FTE are directly involved with conducting program responsibilities. Staff members include a program officer, an environmental specialist, and an audit technician. The remaining 2.09 FTE provide administrative and legal support to the Junk Vehicle Program.

Statutes require the department to make annual grants to each county to finance junk vehicle collection and motor vehicle graveyard operational costs. County expenses represent approximately 80 percent of total program expenditures.

Currently 32 full and part-time county project directors are involved in the program. Generally the county sanitarians conduct the duties of the part-time directors. There are 48 vehicle retrieval operators, who are either county or contracted staff. Clerical staff assist with the program in eleven counties.

The department is proposing a reorganization of the Environmental Sciences Division into two separate divisions to improve operations. The proposed reorganization will not significantly affect the Junk Vehicle Program.

**Program Expenditures
and Funding**

Junk Vehicle Program expenditures for fiscal years 1987-88 and 1988-89 and appropriations for the 1991 biennium are as follows:

Chapter II

Program Background

Table 1

JUNK VEHICLE PROGRAM EXPENDITURES and APPROPRIATIONS (unaudited)
(Fiscal Years 1987-88 through 1990-91)

<u>Expenditures</u>	<u>Actual</u>		<u>Appropriated</u>	
	<u>FY 1987-88</u>	<u>FY 1988-89</u>	<u>FY 1989-90</u>	<u>FY 1990-91</u>
Personal Services	\$127,501	\$131,228	\$ 129,835	\$ 130,030
Operating Expenses	39,861	36,218	66,919 ¹	67,371 ¹
Division Administration ²	60,467	58,904	0	0
County Grants	747,439	771,606	808,608	824,538
Prior Year Adjustment ³	(82,751)	(69,850)	n/a	n/a
Total	\$892,517	\$928,106	\$1,005,362	\$1,021,939

¹ Includes a contingency appropriation of \$29,000 to be used should scrap metal prices fall and crushing contractors charge for services.

² Division administration no longer funded with junk vehicle fees.

³ Unexpended county grant from prior fiscal year.

Source: Compiled by the Office of the Legislative Auditor
from the Statewide Budgeting and Accounting System

The program is funded from three sources: motor vehicle licensing fees; sale of junk vehicles; and motor vehicle wrecking facility licensing fees. Table 2 shows revenues for the Junk Vehicle Program for fiscal years 1987-88 and 1988-89.

Chapter II

Program Background

Table 2

JUNK VEHICLE PROGRAM REVENUES (unaudited)
(Fiscal Years 1987-88 and 1988-89)

<u>Revenue Category</u>	<u>FY 1987-88</u>	<u>FY 1988-89</u>
Motor Vehicle Fees	\$632,415	\$630,842
Junk Vehicle Sales	98,440	272,749*
MVWF License Fees	11,050	10,900
Total	\$741,905	\$914,491

* Increase in crushing revenue due to larger number of vehicles crushed and high scrap metal prices.

Source: Compiled by the Office of the Legislative Auditor from SBAS

Motor vehicle license fees are the primary source of revenue for the program. Junk vehicle fees are assessed on every vehicle licensed in the state and are currently \$1.50 for title transfers and \$0.50 for registration. Revenue derived from the sale of junk vehicles to recycling firms is the second largest source of funding. Revenue from this source varies considerably depending on scrap metal prices and tonnage of vehicles available for recycling. Lastly, motor vehicle wrecking facilities (MVWF) are required to pay an annual licensing fee of \$50.

Chapter III

County Recycling & Enforcement Activity

Introduction

One of the primary purposes of the Junk Vehicle Program is to recycle junk vehicles to conserve natural resources and improve aesthetics of the state. The program is also responsible for junk vehicles being removed from public view through shielding or removal to private motor vehicle wrecking facilities. A junk vehicle is defined as: 1) a discarded, ruined, wrecked, or dismantled motor vehicle, including component parts; 2) a motor vehicle which is not lawfully and validly licensed; and 3) a motor vehicle which remains inoperative or incapable of being driven. A vehicle must meet all three parts of the definition to be classified as a junk vehicle.

Counties identify, collect, and store junk vehicles. State statutes require each county to establish and maintain a motor vehicle graveyard to store collected junk vehicles. In addition, counties are to provide a method of vehicle retrieval for hauling junk vehicles to motor vehicle graveyards.

When 200 or more junk vehicles are accumulated in a county motor vehicle graveyard, the department uses a private contractor to crush and remove the vehicles. The private contractor then transports and sells the crushed vehicles to a scrap processor where they are recycled.

We evaluated methods used by county programs to identify, collect, store, and recycle junk vehicles.

Junk Vehicle Collection and Recycling

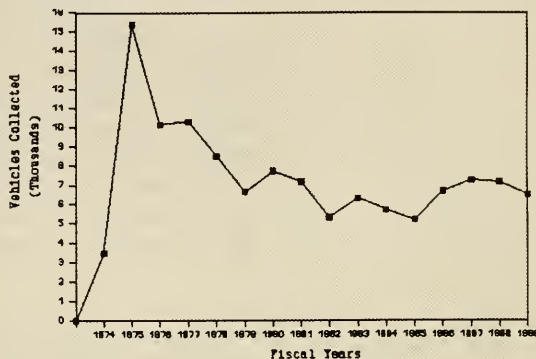
Programs for the collection, disposal, and recycling of junk vehicles have been established in all Montana counties. Since the inception of the program in 1973, 128,000 junk vehicles have been collected and recycled. The following illustration shows the number of junk vehicles collected and recycled annually.

Chapter III

County Recycling & Enforcement Activity

Figure 1

JUNK VEHICLES COLLECTED
(Fiscal Years 1973-74 through 1988-89)



Source: Compiled by the Office of the Legislative Auditor
from DHES records

During the audit we compared Montana's Junk Vehicle Program with nationwide vehicle recycling data. Limited comparative data is available. Two states with identified programs to collect and recycle junk vehicles are North Dakota and Kentucky. Both these states conduct their programs on a special projects basis rather than a statewide basis. Funding is available to conduct a collection and recycling project each year. Specific areas within a county or counties are selected for the junk vehicle clean up project each year. North Dakota's program collects and recycles approximately 5,000 tons of junk vehicles and farm machinery per year while Kentucky collects about 2,400 junk vehicles annually. The average cost per vehicle collected is approximately \$40 in both of these states. In comparison, Montana collects and recycles an average of 8,000 junk vehicles per year at an average cost of \$44 per vehicle collected. Montana's collection costs include some related enforcement costs, whereas North Dakota and Kentucky do not conduct enforcement activities.

Chapter III

County Recycling & Enforcement Activity

Noncompliance at Motor Vehicle Grave- yards

Section 75-10-521, MCA, requires each county to acquire, develop, and maintain property for motor vehicle graveyards. The statutes further require the motor vehicle graveyards to comply with shielding and records maintenance requirements. The statutes mandate junk vehicles and component parts be shielded from view of public roads.

The department conducts periodic inspections of motor vehicle graveyards to ensure compliance with statutes and administrative rules. During these inspections department staff review motor vehicle graveyard shielding, storage of junk vehicles, records maintenance, and facility security.

Department records reveal numerous instances of noncompliance with shielding requirements. During fiscal year 1988-89, the department conducted inspections at 16 of the 57 motor vehicle graveyards. Eleven motor vehicle graveyards had problems with shielding and records maintenance. Noncompliance with shielding requirements included vehicles which were visible and shielding that was in disrepair. Inspection records indicate shielding violations have occurred repeatedly at some motor vehicle graveyards over the past four years.

Concerns with motor vehicle graveyard shielding were also identified during our audit field work. The following photograph is an example of county motor vehicle graveyard non-compliance with shielding requirements.

Chapter III

County Recycling & Enforcement Activity

Illustration 1

GRAVEYARD SHIELDING VIOLATION

Junk Vehicles Partially
Visible From Road



Many of the concerns with shielding violations and inadequate records maintenance could be addressed by increased departmental enforcement. Section 75-10-521, MCA, allows the department to control county operations through approval of county plans for the collection of junk vehicles and the establishment and operation of the motor vehicle graveyards. The section also provides for department approval of county budgets for program operational costs. Therefore, the department has line item approval authority over county junk vehicle program budgets and expenditures. The department could ensure county operational plans and budgets address shielding violations identified at motor vehicle graveyards by using approval authority to provide necessary funding to correct shielding noncompliance.

Chapter III

County Recycling & Enforcement Activity

The department agrees current procedures have not been effective in ensuring compliance with requirements pertaining to county motor vehicle graveyards. The department will establish a goal to increase department inspections and correct violations at county motor vehicle graveyards. Department inspections of county motor vehicle graveyards is discussed in Chapter V.

Recommendation #1

We recommend the department enforce county motor vehicle graveyard compliance through the budget approval process.

Inadequate Junk Vehicle Inventory Controls

Once a vehicle is turned over to a county junk vehicle program, the department relies primarily on three controls to record and monitor these vehicles. These controls are: 1) a release of ownership form and/or title for the vehicle; 2) a motor vehicle graveyard log sheet; and 3) an inventory identification number. These controls enable the department to monitor collection of junk vehicles and ensure vehicles are properly relinquished to the program. In addition, the department utilizes this information in developing contract specifications for the disposal of junk vehicles.

Vehicle identification information is submitted by DHES to the Department of Justice so motor vehicle records can be purged of outdated junk vehicle files. In addition, junk vehicle titles are surrendered to the Registrar's Bureau to decrease the potential for misuse of titles and vehicle identification numbers. Potential misuse includes disguise of vehicle theft which is accomplished by switching vehicle identification numbers.

During the audit we examined inventory controls and found that controls over junk vehicles collected through the program need improvement. Concerns with inventory controls have also been

Chapter III

County Recycling & Enforcement Activity

identified during department inspections of county motor vehicle graveyards. We determined the department should develop documented procedures to ensure controls are effectively utilized in the following areas: releases of ownership; motor vehicle graveyard log sheets; and inventory identification numbering.

Release of Ownership Needed

Statutes and administrative rules require county motor vehicle graveyards to submit records, documents, and other information concerning junk vehicles to the department. Section 16.14.207, ARM, requires a signed title or release to be obtained for each junk vehicle placed in a county motor vehicle graveyard.

A review of department records revealed a number of collected junk vehicles for which there were no corresponding signed titles or releases. During July through December of fiscal year 1989-90, 17 vehicles were recycled without a title or release. During fiscal year 1988-89, 165 vehicles were recycled without a title or release. Sixty-two of these vehicles were abandoned at a motor vehicle graveyard and determination of ownership was not possible. Records also revealed there were five vehicle titles and releases for which program staff were unable to locate a corresponding vehicle. In addition, we noted numerous incomplete releases of ownership. These releases do not always contain the required vehicle identification information and signatures.

We also noted counties have developed their own releases. The form varies among counties and ownership is released to varying parties including the state or the county. A standardized release has not been developed by DHES.

Motor Vehicle Graveyard Log Sheet Not Properly Used

Section, 16.14.207, ARM, requires every county motor vehicle graveyard to maintain inventory records on each vehicle placed in it. The graveyards are to submit their records to the department on a quarterly basis. The motor vehicle graveyard log sheet is currently used as the quarterly report. The records are

Chapter III

County Recycling & Enforcement Activity

used by the department to monitor junk vehicle collection activity, ensure vehicles are properly relinquished, and develop contract specifications for the disposal of junk vehicles.

A review of department records revealed some motor vehicle log sheets do not contain the required information concerning motor vehicle identification. In addition, these records are not always submitted to the department as required by administrative rules. A review of department records indicated nine counties were at least five months late in submitting graveyard log sheets to the department.

Improper Use of Inventory Identification Numbers

When a junk vehicle is received by the county program it is assigned an inventory number. This number is placed on the vehicle, the corresponding title and/or release, and on the motor vehicle graveyard log sheet. The identification numbers assist counties in maintaining inventory records of junk vehicles collected. Audit work conducted at various counties identified 7 of 15 (47 percent) counties reviewed are not properly using inventory numbering. Numerous examples of vehicles that were not assigned an inventory number were noted at seven county motor vehicle graveyards.

Inventory Controls Could Be Improved

Lack of inventory controls makes it difficult to monitor vehicles collected through the program. As a result of inadequate controls, vehicles were crushed whose ownership interests were not properly released to the state through the release of ownership form and/or assignment of vehicle title to the state. In addition, there were vehicles recorded as collected that could not be located at county motor vehicle graveyards.

Vehicle information is submitted to the Department of Justice to allow purging of outdated motor vehicle records. In addition, surrender of junk vehicle titles decreases the potential for hiding vehicle theft through the misuse of titles and vehicle identification numbers. Incomplete DHES vehicle information impedes monitoring by the Department of Justice. Registrar's

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Office staff at the Department of Justice stated they cannot process numerous releases of ownership because information is incomplete and illegible.

Even though the department informs county staff of proper inventory procedures, problems continue to exist. Department officials state county staff turnover and inadequate county records contribute to the problems with inventory procedures.

Many of the concerns identified could be addressed by the development and distribution of documented procedures regarding junk vehicle inventory methodology. Thus, if there is staff turnover, new staff will be able to follow proper inventory procedures. The department should also develop a standard release of ownership to be used by county junk vehicle programs. In addition, increased department monitoring of county operations should help ensure use of proper inventory procedures.

The department agrees accurate and complete junk vehicle inventory information should be maintained by counties. In response to our concerns, the department stated it will continue to inform county programs of the need to keep proper and updated inventory records and will work toward obtaining compliance with related requirements.

Recommendation #2

We recommend the department develop and require use of standard inventory procedures and release of vehicle ownership forms by the counties.

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County Recycling & Enforcement Activity

Revise Crushing Contract Specifications

One of the Junk Vehicle Program functions provided by the department is to oversee contracts for the disposal of junk vehicles from county motor vehicle graveyards. These contracts generated approximately \$273,000 in fiscal year 1988-89. We reviewed the department's invitation for bid (IFB) process pertaining to service contracts for the purchase and disposal of junk vehicles. Our review found improvements could be made in the IFB methodology used for contracts.

Contract bid specifications include the number of vehicles located in motor vehicle graveyards. Bids are then solicited based upon this figure. The bids are a flat rate dollar amount for all vehicles listed in the contract specifications. We reviewed department records to determine accuracy of bid specification data. We noted discrepancies between the number of vehicles advertised in bids and number of vehicles actually recycled by the contractor. During fiscal year 1988-89 some contracts had a greater number of vehicles recycled than advertised while other contracts had a lesser number of vehicles recycled than advertised. The net result was 211 additional vehicles recycled. During July through December of fiscal year 1989-90, 288 more vehicles were recycled than were advertised in the IFB. The result is a decrease in revenue gained from these contracts. During fiscal year 1988-89, additional revenue of \$5,800 could have been obtained. The estimated decrease in revenue for fiscal year 1989-90 is \$12,000.

Program officials state discrepancies occur for a number of reasons. The primary cause is the additional vehicles which are brought into the motor vehicle graveyard after contract specifications are written. Although contract specifications do not contain provisions for the handling of these additional vehicles, the department has allowed contractors to dispose of the additional vehicles that are in the motor vehicle graveyards. Contractors have not been required to pay for these additional vehicles and indicate they have not been included in their bids.

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In addition, officials indicate poor inventory record keeping by county staff contributes to the problem of inaccurate information.

The department should revise contract wording to ensure the state is reimbursed for all recycled vehicles.

In order to eliminate any potential revenue loss due to current contract procedures, the department is considering allowing the contractor the option of removing extra vehicles on a prorated basis based on the cost per vehicle of the price bid on the advertised lot of vehicles.

Recommendation #3

We recommend the department revise contract specifications and procedures to ensure the State is reimbursed for all recycled vehicles.

Chapter IV

Wrecking Facility Monitoring & Enforcement

Introduction

Motor vehicle wrecking facilities (MVWF) are monitored by the department to determine compliance with laws and administrative rules. Department staff monitor facilities by conducting on-site visits of each facility approximately once every two years. Enforcement activities such as licensing, compliance plans, and legal action are conducted primarily by the department. The department requests county staff who are responsible for junk vehicle program activities to supplement state monitoring by conducting annual inspections of facilities and observing activity throughout the year.

We found 80 percent of the motor vehicle wrecking facilities we inspected do not meet statutory and administrative rule requirements pertaining to licensing, shielding, or records maintenance. We also determined department monitoring and enforcement of MVWFs could improve in identifying noncompliance and ensuring noncompliance concerns are corrected in a timely manner. Concerns with department monitoring and enforcement, and wrecking facility noncompliance were also identified in a performance audit survey conducted by our office in 1983. Department monitoring and enforcement show little improvement since that time.

This chapter presents information pertaining to monitoring and enforcement of motor vehicle wrecking facilities, and includes recommendations to improve enforcement procedures conducted by department and county staff.

MVWF Monitoring and Enforcement

Montana statutes place responsibility to enforce provisions of the Motor Vehicle Recycling and Disposal Act with the Department of Health and Environmental Sciences. The act includes requirements pertaining to the licensing of wrecking facilities and enforcement of facility licensing requirements. The statutes further mandate junk vehicles and component parts be shielded from view of public roads. Facilities are required to maintain proper vehicle identification and ownership records.

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A MVWF is established for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of the motor vehicle. The facility can also buy or sell secondhand parts or component parts. MVWFs are required to comply with statutory requirements in three main areas: 1) facility shielding; 2) maintaining inventory records of vehicles at the facility; and 3) submission to the Department of Justice of quarterly reports of vehicles purchased.

During the audit we reviewed MVWF compliance with applicable statutes and rules to determine the effectiveness of department monitoring and enforcement activities. Facility compliance was discussed with department officials and staff, and with county Junk Vehicle Program directors. In addition, we accompanied department representatives on inspections and conducted independent inspections of MVWFs.

We inspected 30 MVWFs (14 percent of 221 licensed facilities) during our field visits to nine counties. Prior to the inspections we observed department inspections and used statutes and administrative rules as criteria. Our inspections identified significant noncompliance. Twenty-four of thirty (80 percent) of the inspected MVWFs were not in compliance with shielding requirements. Problems noted included: junk vehicles outside shielded areas; vehicles visible above shielding; use of improper shielding materials; and shielding that was in disrepair. In addition, for those facilities where inventory records were examined, inspections revealed 50 percent (7 of 14) of the inspected facilities were not in compliance with vehicle inventory records maintenance and reporting requirements. Noncompliance included facilities which did not maintain inventory records and facilities that maintained the records but did not submit them to the Department of Justice. These concerns are similar to non-compliance noted at county motor vehicle graveyards.

The following photographs illustrate examples of facility non-compliance with shielding requirements.

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Illustration 2

MVWF SHIELDING VIOLATIONS

**Junk Vehicles Outside
Shielding; Shielding
in Disrepair**



**Junk Vehicles Visible
Above Shielding**



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Department records also indicate continued noncompliance by MVWFs in the same areas. A review of department records for a sample of other wrecking facilities revealed 75 percent (15 of 20) of those facilities were not in compliance. Discussions with county level staff also confirmed wrecking facility noncompliance in these same areas.

Noncompliance with statutes and administrative rules results in unsightly conditions and may pose safety hazards to the public. In addition, inadequate MVWF inventory records and nonsubmission of reports to the Department of Justice limit the amount of control the Department of Justice has over stolen motor vehicles and misuse of vehicle identification information.

Given the extent of MVWF noncompliance, it is apparent department monitoring and enforcement of wrecking facilities could be improved. Limited monitoring and enforcement of wrecking facilities is due to a combination of a number of related factors including: limited state program staff activity; minimal county involvement; unclear enforcement statutes and administrative rules; current department enforcement practices; insufficient follow-up and controls to ensure identified concerns are resolved on a timely basis; and inadequate communications between the department and county programs. These factors are discussed in the following sections.

Clarification of MVWF Monitoring and Enforcement Responsibility Needed

DHES has overall statutory responsibility for enforcing statutes and administrative rules pertaining to MVWFs. As part of enforcement activities, department staff inspect each facility once every two years on the average. Some facilities are inspected less often. The department currently has 1.5 FTE who conduct field visits to monitor activities of 221 MVWFs. These staff perform additional duties relating to the Junk Vehicle Program. Other duties include facility licensing, review of county operational budgets, and oversight of junk vehicle disposal contracts. This limits the amount of department field visits. The department relies, to a certain extent, on county level staff to supplement the monitoring of MVWFs and has

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requested counties to assist with monitoring and annual inspections of each wrecking facility.

However, counties have limited involvement with monitoring wrecking facility compliance with statutes and rules. The amount of monitoring and enforcement activity varies among counties. While there are some counties which monitor MVWFs, the majority do not. Approximately 50 percent of the counties do not conduct annual inspections of wrecking facilities. Support by county officials for monitoring and enforcement activities is limited in 15 of 17 counties we visited. County commissioners in four of the counties we visited restrict the level of county enforcement activity. County staff in affected counties are prohibited from monitoring and enforcing compliance. Legal assistance with enforcement action against MVWFs at the county level also varies. County attorneys in thirteen counties we visited will not readily pursue action against persons violating junk vehicle regulations related to MVWFs.

County staff are unclear as to the statutory authority provided counties to monitor wrecking facility activities and enforce compliance with licensing provisions. They indicated the department has not provided them with clear direction regarding county and state responsibilities pertaining to MVWFs. The staff are unsure which inspections and monitoring should be conducted.

Statutes relating to county responsibilities are general and vague. Under section 75-10-521, MCA, counties have three specific responsibilities: 1) establish a motor vehicle graveyard; 2) submit a plan for junk vehicle collection and operation of a motor vehicle graveyards; and 3) submit an operating budget. In addition, administrative rules contain further provisions pertaining to county motor vehicle graveyards and program budgeting procedures.

Without assistance from county staff it is difficult for current department staff to adequately monitor and enforce MVWF regulations. Department staff agree the current statutes are

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unclear regarding requirements for county program staff to assist with monitoring and enforcement. The department will seek clarification of current statutes to determine the specific functions and duties of both the state and counties under the Montana Motor Vehicle Recycling and Disposal Act. This issue will be addressed during the 1991 Legislative Session.

Recommendation #4

We recommend the department seek legislative clarification of statutes pertaining to state and county enforcement responsibilities.

Department Enforcement Controls Could Be Improved

Statutes require the department to ensure MVWFs comply with related statutory and administrative rule provisions. Currently, department staff conduct the majority of enforcement related activities pertaining to wrecking facilities. We found department procedures used to enforce compliance need improvement as noncompliance at MVWFs is evident.

The department uses "passive" enforcement procedures. Staff use persuasion rather than strict enforcement to bring facilities into compliance. The department relies on notices of violation and compliance plans to attempt to bring facilities into compliance with statutes and administrative rules. Facilities are allowed many opportunities to correct identified deficiencies. Department denial or revocation of a wrecking facility license is used as a last resort. In addition, penalties have only been assessed against four MVWFs since the inception of the program in 1973.

Enforcement activity is not actively pursued. Numerous cases have been continuing for years. For example, the department has tried to get a facility properly shielded for four years and shielding still does not comply with administrative rule require-

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ments. For two other facilities, the department has attempted to resolve shielding violations since 1977. The following illustration provides information regarding department enforcement activity against a sample of MVWFs.

Table 3					
JUNK VEHICLE PROGRAM					
EXAMPLES OF DEPARTMENT ENFORCEMENT ACTIVITY					
<u>MVWF</u>	<u>Compliance Concern</u>	<u>Date Identified</u>	<u>MVWF Licensed</u>	<u>Concern Corrected</u>	<u>Legal Action Taken</u>
A	Shielding Incomplete	7/1986	1986-89	No	No
B	Shielding in Disrepair Vehicles Visible	12/1987	1988-89	No	No
C	Shielding Inadequate	4/1976	1976-88	No	Referred to DHES Legal 11/1989
D	Shielding Inadequate	3/1988	1988-89	No	No
E	Shielding Inadequate	11/1987	1988-89	No	No
Source: Compiled by the Office of the Legislative Auditor from DHES records					

Department files indicate staff do not always conduct follow-up activity to ensure compliance with or resolution of identified concerns. Eight of twenty (40 percent) files did not document action taken to follow-up on identified compliance concerns. It appears follow-up action was not conducted and compliance concerns were not resolved.

Part of the process used by department staff to monitor facilities is on-site inspections. Records revealed department staff inspect facilities approximately once every two years. Some facilities are inspected less often. Emphasis is placed on inspecting those facilities with major violations. As a result, some facilities are not inspected as often as others. Untimely

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department inspections of MVWFs inhibit the effectiveness of enforcement activities. In addition, department staff do not routinely monitor closed wrecking facilities to ensure illegal operations do not occur. We noted two unlicensed facilities in operation of which staff were unaware.

We also examined department procedures for recording enforcement activity. We found the department has begun to implement a data processing system to track monitoring and enforcement activity; however, the system is not complete. Priority has not been given towards developing and implementing the system. Completion and use of this system would assist with monitoring enforcement activity and resolution.

As noted previously, we found numerous examples of continued noncompliance by MVWFs licensed by the department. Many of these facilities have inadequate shielding and junk vehicles are visible to the public. In addition, improper shielding and unrestricted access to junk vehicles may pose public safety hazards.

It is apparent the Legislature intended for the enforcement of statutory provisions pertaining to MVWFs. Section 75-10-514, MCA, authorizes the department to deny, suspend, or revoke a facility's license for noncompliance. In addition, sections 75-10-541 and 542, MCA, contain enforcement provisions which provide for injunctive relief and civil and criminal penalties. However, current department enforcement activity pertaining to MVWFs is limited to passive procedures. The department needs to increase staff enforcement activity and utilize statutory enforcement provisions. The department should also establish controls to ensure wrecking facility compliance concerns are identified, monitored, and resolved. In addition, program officials should place a high priority on implementing the data processing system to document MVWF enforcement and compliance status.

In response to our concerns, the department will review and modify the procedures used to enforce MVWF compliance. In

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addition, department officials believe legislative clarification of the Act, along with continued training for county staff, should help counter these problems. The department will also complete the updating and expansion of the data processing system for tracking monitoring and enforcement activity in the near future.

Recommendation #5

We recommend the department:

- A. Actively enforce statutes and administrative rules.**
- B. Establish controls to ensure compliance concerns are identified, monitored, and resolved.**
- C. Implement a data processing system to document enforcement and compliance status.**

Revise Department Licensing Procedures

Section 75-10-511, MCA, requires a MVWF to be licensed by the Department of Health and Environmental Sciences in order to operate. The statutes authorize the department to deny, suspend, or revoke a facility's license for failure to comply with statutes and administrative rules regarding shielding of the facility, maintenance of inventory records, and submission of quarterly reports.

The department renews licenses for a number of facilities which are not in compliance with statutes and administrative rules. The department renews licenses for many MVWFs with existing compliance problems based upon the licensee developing an acceptable plan detailing proposed action to bring the facility into compliance. The license is renewed based on department approval of the compliance plan and prior to actual compliance by the wrecking facility. DHES uses the compliance plan as the first phase in the enforcement process.

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While allowing the wrecking facility some time to comply is reasonable, the department allows many facilities repeated opportunities for compliance. In addition, the MVWF license granted by the department upon receipt of a compliance plan is not contingent on compliance, but is valid for the entire year.

Current department licensing practices contribute to continued noncompliance by MVWFs. Many facilities do not implement the compliance plan, but continue to operate until the license expires at the end of the year. The licensing process then repeats itself with the department again requesting a compliance plan. Issuing a license which is valid for the entire year does not provide impetus for a facility to implement the compliance plan.

In order to ensure timely MVWF compliance, we believe the department could issue probationary licenses to noncomplying facilities. These temporary licenses would expire on the date the compliance plan is to be completed. The department would then inspect the facility and issue a permanent license if the facility is in compliance. If the facility is not in compliance, the department should take legal action against the facility for operating without a valid license. Additional legislative authority may be needed to allow for issuance of a probationary license.

Department officials believe limited department staff and minimal county program staff assistance with MVWFs makes it difficult to perform timely inspections and follow-up activity to ensure compliance. In response to our concerns, department officials agree probationary licenses would assist with improving compliance by MVWFs.

Recommendation #6

We recommend the department implement administrative rules to allow for the issuance of probationary MVWF licenses.

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Communicate Enforcement Status With Counties

Discussions with county staff indicated communication of state information pertaining to MVWF monitoring, enforcement, and licensing could be improved. County staff stated they are not routinely informed of the status of department enforcement activity against wrecking facilities which are not in compliance with licensing requirements. For example, county staff may recommend denying a MVWF license during the year-end inspections. County recommendations are forwarded to the department for license processing. County staff are uncertain if the department follows their recommendations as they are not informed of license status until the end of the following year when the department requests counties to perform year-end inspections. In addition, staff are not informed of pending legal action against wrecking facilities.

A review of records at the counties showed limited communication is received from the department regarding MVWFs. Fifty percent of the counties we reviewed did not have recent wrecking facility inspection reports in their files. County program staff expressed a need for information to keep them updated regarding department enforcement status against wrecking facilities. They believe this would facilitate county monitoring activities. Currently, the limited communication inhibits monitoring of MVWFs.

Since the department has requested county program staff to provide assistance with monitoring of wrecking facilities, communication of enforcement activity by the department is needed to facilitate monitoring. If counties are going to be involved with monitoring facilities, the department should improve communication of information pertaining to MVWF enforcement. The department should develop a report to provide data on wrecking facility enforcement status to counties on a regular basis.

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Department officials indicate copies of wrecking facility correspondence are provided to county staff. However, counties are not provided with a routine status report. The department believes communication concerns are the result of several factors including county staff turnover and poor record keeping practices at the counties. DHES officials agree this problem can inhibit monitoring of MVWFs. To help alleviate the concern the department will continue efforts to provide county programs with information on department activities and communications.

Recommendation #7

We recommend the department develop a report which would periodically provide information pertaining to MVWF enforcement status to county level staff.

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Introduction

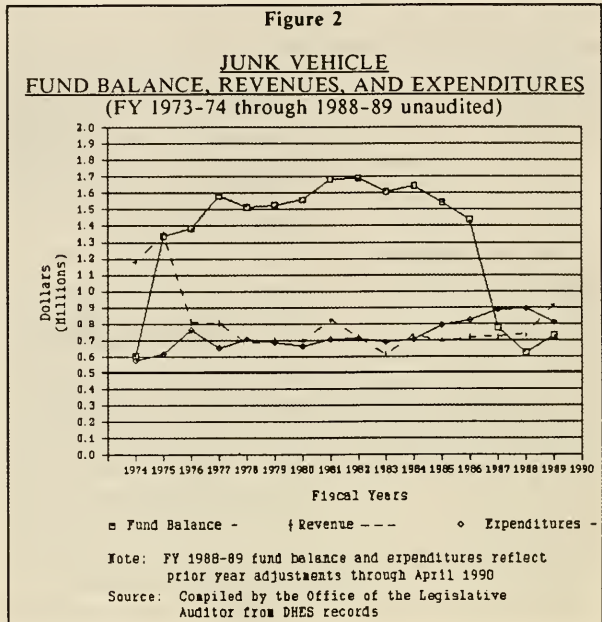
During the audit we examined program administrative areas including program funding and management controls. We also identified a conflict between statutes and administrative rules in one area of junk vehicle enforcement activity. This chapter discusses these issues.

Adequacy of Funding

The Junk Vehicle Program receives funding from motor vehicle licensing fees, sale of junk vehicles, and motor vehicle wrecking facility licensing fees. Motor vehicle licensing fees account for approximately 80 percent of program funding. This revenue source has been consistent over time. Meanwhile, overall program expenditures rose 10 percent over the past four fiscal years. County expenditures increased 9.4 percent, while total division expenditures have decreased during the current biennium as division administration is no longer funded with junk vehicle fees. Expenditures have exceeded revenues for four of the past five fiscal years. As a result, the Junk Vehicle Special Revenue Account fund balance has been decreasing. The following graph details the balance since the beginning of the program along with revenues and expenditures.

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There are a number of issues which have or will effect the Junk Vehicle Special Revenue Account fund balance. These are discussed in the following sections.

Transfers to General Fund

Funds from the Junk Vehicle Account were transferred to the General Fund during the 1985 legislative session. This was a one-time legislative transfer of \$500,000 for the 1987 biennium. Interest earned on the balance of the Junk Vehicle Account is also credited to the General Fund. An estimate prepared by the Office of the Legislative Fiscal Analyst states interest earnings derived from this account totalled \$1,578,237 during fiscal years 1977-78 through 1987-88.

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Revenue Sources Fluctuate

Section 75-10-533, MCA, requires motor vehicle licensing fees be adjusted to assure no more than actual cost of operation of the program is collected. These fees have been statutorily decreased over the years because of large fund balances. The original fees were \$4.00 for title transfer and \$1.00 for registration in 1973. The fees were decreased in 1975 and again in 1977 in response to the large fund balance that was accumulating in the Junk Vehicle Account. Fees are currently \$1.50 and \$0.50 respectively.

The second largest source of program revenue is derived from the sale of junk vehicles to private recycling contractors and accounts for approximately 14 percent of funding. Revenue from this source varies depending on scrap metal prices and number of junk vehicles available for recycling. It has varied from a low of \$18,000 during the steel market collapse in fiscal year 1982-83 to a high of \$272,750 during fiscal year 1988-89. The increased revenue received from the sale of junk vehicles in 1988-89 is attributed to high scrap metal prices. Past market history shows that prices may not remain at this level for an extended period of time. In contrast, revenue from the sale of junk vehicles was \$29,000 in fiscal year 1986-87. The volatility of this revenue source makes it an unpredictable funding source.

Allocation of Department Expenditures

Junk vehicle funds have been used for expenses not directly related to the program. This has been done with the knowledge and direction of the legislature.

DHES personal service charges are allocated among various department programs. Junk Vehicle Program funds were appropriated for approximately 50 percent of administration of the Environmental Sciences Division even though this exceeds the level of support provided. This amounted to \$59,000 in fiscal year 1988-89. Beginning fiscal year 1989-90, division administration is no longer funded with Junk Vehicle Program funds.

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In addition, two positions in the Solid and Hazardous Waste Bureau are funded (\$45,000) with a disproportionate amount of Junk Vehicle funds when compared to time spent on the Junk Vehicle Program by the applicable staff. The department intends to adjust the personal service budget during the next biennium to reflect actual time spent on the Junk Vehicle Program.

County Expenditures Greater Than County Revenue

Seventy percent of the counties request and receive Junk Vehicle Program grants in excess of motor vehicle registration fees generated at the county level. The excess grants totalled approximately \$50,000 more each year than was generated by registration fees in each of the past four fiscal years. This occurs because the statutes provide counties with up to \$1.00 for each motor vehicle licensed in that county. However, junk vehicle disposal fees received are \$0.50 for each vehicle registered and \$1.50 for each new vehicle title. These fees do not entirely fund county program expenditures. During fiscal year 1988-89, 42 counties spent more on the junk vehicle program than the county received from junk vehicle fees. Motor vehicle licensing fees fund only 80 percent of county expenditures. Thus, the state is authorizing county expenditures of up to \$1.00 per licensed vehicle even though counties generate an average of \$0.80 per vehicle. The statutory funding formula was not proportionally adjusted when the registration fee was decreased from \$1.00 to 0.50 per vehicle. The difference is funded from the sale of junk vehicles, MVWF licenses, and from the Junk Vehicle Account fund balance.

Declining Fund Balance

Junk Vehicle Program expenditures have exceeded revenues for four of the past five fiscal years. Generally, the program relies on the Junk Vehicle Account fund balance to maintain current funding levels. The following table illustrates projected junk vehicle fund balance through fiscal year 1993-94.

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Table 4					
PROJECTED JUNK VEHICLE FUND BALANCE (Fiscal Years 1989-90 through 1993-94)					
Fiscal Year	Projected Expenditures	Projected Revenues		Projected Fund Balance	
		Option A*	Option B**	Option A*	Option B**
1989-90	\$ 906,362	\$770,311	\$830,311	\$ 592,993	\$652,993
1990-91	922,939	777,950	837,950	448,004	568,004
1991-92	960,095	785,588	845,588	273,498	453,498
1992-93	991,077	793,227	853,227	75,648	315,648
1993-94	\$1,022,059	\$800,865	\$860,865	\$(145,547)	\$154,453

* Option A assumes annual scrap metal revenue of \$110,000.

**Option B assumes annual scrap metal revenue of \$170,000.

Source: Compiled by the Office of the Legislative Auditor from DHES records

The volatility of revenue received from the sale of junk vehicles makes it difficult to project program funding. Therefore, junk vehicle fund balance was projected using two options: annual scrap metal revenue of \$110,000 or \$170,000. Annual revenue derived from this source has averaged approximately \$110,000 since 1973. Scrap metal revenue has been \$170,000 or greater only twice during this period. Assuming annual scrap metal revenue of \$110,000 the fund balance is adequate to maintain program expenditures through fiscal year 1992-93. However, after that time program expenditures cannot be funded at current levels.

DHES is statutorily required to prepare an overview of the Junk Vehicle program's fiscal and operational status for each legislature. This issue should be addressed when that report is presented.

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Management Controls

We examined management controls used by the department in administering the program. We identified several areas where management controls could be improved including program goals and objectives, policies and procedures, training of county program staff, and inspections of county motor vehicle graveyards. The following sections discuss these issues.

Program Goals and Objectives Should Be Developed

The role of management entails directing the use of limited resources in the most effective and efficient manner to fulfill the statutory purposes of the program. Establishing documented measurable goals and objectives is the first step in the process. The next step is to periodically review program progress in implementing goals and objectives.

We found specific documented goals and objectives have not been established for the Junk Vehicle Program. Although the program has a goals statement that sets forth the statutory purpose of the Junk Vehicle Program, this statement does not provide measurable short and long term goals and objectives for the program to achieve in the future. Department officials state some informal program goals do exist. However, these goals are not documented nor formally reviewed.

During our review we found program staff receive minimal formal direction as to responsibilities required in conducting operations of the Junk Vehicle Program. Consequently, operations do not always meet program intent. The lack of measurable goals and objectives makes it difficult to determine achievement of statutory purpose.

Specific goals and objectives would provide direction for staff and assist with meeting program intent. For example, one suggested goal would be to ensure program staff perform functions in a consistent manner. An objective to accomplish this would be to develop and distribute a policy and procedures manual. Another suggested goal would be to increase motor vehicle wrecking facility compliance with statutes and rules

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pertaining to shielding and record keeping. A related objective would be to conduct a formal inspection of each facility once a year.

The department should establish specific documented goals and objectives for the Junk Vehicle Program. The department should then conduct periodic reviews to determine attainment of established goals. In response to our recommendation, department officials will develop long and short term goals and objectives in the future. In addition, progress in implementing goals and objectives will be reviewed.

Recommendation #3

We recommend the department establish specific documented goals and objectives for the Junk Vehicle Program and conduct periodic reviews to determine attainment of the goals.

Need For Policy and Procedure Manual

We found that although the program does have a reference manual, it does not have documented program policies and procedures. The manual contains related laws and administrative rules, department legal opinions, examples of forms and letters, and budgeting information. During audit work conducted at counties, we noted numerous examples of inconsistent operations at the county level. We found discrepancies in junk vehicle enforcement methodology used at various counties. In addition, we noted inadequacies in record keeping and inventory procedures. County staff were uncertain of responsibilities. They expressed the need for additional guidance through formal procedures.

Specific program policies and procedures would guide state and county personnel in performing program functions in a consistent and accurate manner. In addition, establishment of proce-

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dures strengthens management controls over program operations. Documented policies and procedures also help to ensure continuity of services as staffing changes occur.

Department officials indicate the current manual was intended to be a reference document for county program directors and was not intended to document program policies and procedures. This was done to allow counties flexibility in establishing and operating the program.

Many of the identified inconsistencies could be addressed by developing specific policies and procedures. The department should develop and distribute policies and procedures to all state and county junk vehicle program staff. Examples of suggested procedures include: enforcement procedures including legal aspects; program record keeping guidelines; motor vehicle wrecking facility inspection methodology; and junk vehicle inventory controls.

The department intends to develop more specific program procedures once department and county duties are clarified by the legislature.

Recommendation #9

We recommend the department develop specific policies and procedures for the Junk Vehicle Program.

Increase County Staff Training

During our audit we examined the adequacy of county staff training provided by the department. Training is necessary to ensure county personnel are performing program functions in a consistent and accurate manner. Our review found additional training of county program staff would be beneficial.

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Formal training of county staff has been limited. The department conducted training seminars in 1981 and 1988. In addition, some informal training is provided to new county staff as time permits. Informal training covers inspection methodology, techniques for pursuing compliance, recordkeeping requirements, and general program responsibilities. County program staff expressed positive comments about the 1988 department training seminar, but a majority of staff stated additional training was needed. Limited department staff and resources have affected the amount of training provided to county staff.

The department should provide additional training to county Junk Vehicle Program staff. Additional training would serve to guide county personnel in performing program functions in a consistent and accurate manner. In addition, training would strengthen program operations. The department agrees additional training of county program staff would be beneficial. They have established an informal goal of providing continuous formal training for county program staff on a biennial basis. The department currently plans for another training seminar in the fall of 1990.

Recommendation #10

We recommend the department provide additional training to county Junk Vehicle Program staff.

Timely Inspections of County Motor Vehicle Graveyards Needed

The department conducts periodic inspections of motor vehicle graveyards to ensure compliance with statutes and administrative rules. During these inspections the department staff review motor vehicle graveyard shielding, storage of junk vehicles, records maintenance, and facility security.

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Department inspections are not being conducted in a timely manner. A review of department inspection records revealed 35 percent of county motor vehicle graveyards have not been inspected by the department in the past three years.

Untimely department inspections contribute to noncompliance evident at county motor vehicle graveyards. Inspections revealed 11 of 16 motor vehicle graveyards violated shielding and records maintenance requirements. Noncompliance with shielding requirements included vehicles which were visible and shielding that was in despair. Increased department inspections of motor vehicle graveyards would help ensure county compliance with statutes and administrative rules.

Department officials indicate inspections of county motor vehicle graveyards are a low priority due to staffing limitations. However, the department will establish a goal to increase department inspections and correct violations at county motor vehicle graveyards.

Recommendation #11

We recommend the department conduct timely inspections of county motor vehicle graveyards.

Controlling Junk Vehicles

There is a conflict between statutes and administrative rules in the area of Junk Vehicle Program enforcement activity for sites containing junk vehicles in locations other than motor vehicle wrecking facilities (MVWFs) or county motor vehicle graveyards. These sites contain junk vehicles and do not meet the definition of a MVWF or county motor vehicle graveyard contained in section 75-10-501, MCA. These sites contain less than four junk vehicles. Section 16.14.206, ARM, states that these

junk vehicles are to be deposited with the county motor vehicle graveyard, or, if left on the premises, the vehicle is to be shielded from public view. In addition, the junk vehicles can be licensed or sold to a MVWF.

**Conflict between Statutes
and Administrative Rules**

Current statutory authority regarding the control of junk vehicles does not address junk vehicles outside of wrecking facilities and county motor vehicle graveyards. However, section 16.14.206, ARM, attempts to provide control over one to three junk vehicles at one location. This rule is in excess of the department's authority to regulate as established by the Legislature. Section 75-10-503, MCA, gives the department authority to adopt rules including the control of junk vehicles in locations other than MVWFs or county motor vehicle graveyards. This provision is so vague it effectively grants no authority to the department to regulate individuals or facilities not meeting the definitions of wrecking facility or motor vehicle graveyards.

During county visits we reviewed county procedures for enforcing rules pertaining to junk vehicles in locations other than wrecking facilities. We found monitoring and enforcement of other junk vehicles varies among the counties visited. Some counties conduct identification and enforcement activities and others do not. Many counties rely on passive procedures to identify junk vehicles and ensure they are removed from public view. Staff in these counties do not inspect the area for junk vehicles. Rather, they rely on citizen complaints to identify violations. In addition, we found minimal follow-up by county staff. Counties do not make a concerted effort to monitor and enforce the provisions pertaining to junk vehicles at locations other than MVWFs or county motor vehicle graveyards.

The lack of clear statutory authority has limited county program enforcement of less than four junk vehicles in some counties. Junk vehicle requirements are being enforced and violations prosecuted in some counties and not in others. Some county attorneys are reluctant to enforce provisions of the administrative rules pertaining to these junk vehicles. They also believe

Chapter V

Program Administration

statutory authority in this area is vague. Some county Junk Vehicle Programs pursue legal action without the services of the county attorney by use of private attorneys. We also found county commissioners limit the level of enforcement activity in four of the counties visited. County program staff in these counties are directed to not enforce the rules pertaining to other junk vehicles.

Program staff agree there is a concern regarding statutory authority to regulate less than four junk vehicles in one location. During the 1987 legislative session, the department proposed a bill to clarify liability of junk vehicle owners and to require all junk vehicles be shielded from public view. The bill did not pass.

While administrative rule provisions are being effectively used and enforced in some counties they are not in other counties. If the department and counties are to regulate less than four junk vehicles at one location, clear statutory authority is needed. Clarification would improve program effectiveness in this area by providing the department and counties with specific authority and responsibility to control these junk vehicles. We believe the department should seek legislative clarification of provisions pertaining to regulation of less than four junk vehicles in one location. If authority is not granted, administrative rules pertaining to the regulation of less than four junk vehicles should be deleted. In response to our concerns, department officials indicate they will seek legislative clarification of the Montana Motor Vehicle Recycling and Disposal Act during the 1991 legislative session.

Recommendation #12

We recommend the department:

- A. Seek legislative clarification of statutory provisions pertaining to regulation of less than four junk vehicles in one location; or,**
- B. Delete administrative rules pertaining to regulation of less than four junk vehicles.**

Chapter VI

Program Effectiveness

Summary

The department should improve enforcement of requirements regarding wrecking facilities and county motor vehicle graveyards. In addition, different interpretations of statutes and administrative rules have contributed to concerns with enforcement activity for sites containing less than four junk vehicles. Needed improvements were noted in the following areas:

- * Wrecking Facility Monitoring and Enforcement
 - 80% of inspected facilities not in compliance
 - MVWF monitoring and enforcement responsibility not clear
 - department enforcement controls could be improved
 - department licensing procedures should be revised
 - Need for report pertaining to MVWF enforcement status
- * County Recycling and Enforcement Activity
 - noncompliance evident at county motor vehicle graveyards
 - inadequate junk vehicle inventory controls
 - crushing contract specifications should be revised
- * Program Administration
 - reliance on junk vehicle fund balance to fund expenditures
 - department management controls could be improved
 - statutes pertaining to regulation of less than four junk vehicles are vague

Enforcement activities need to be improved to increase overall effectiveness of the Junk Vehicle Program. Primary emphasis should be placed on the clarification of department and county responsibilities for wrecking facility monitoring and enforcement activity. In addition, the department needs to actively enforce statutes and administrative rules pertaining to wrecking facilities by utilizing statutory penalty provisions and issuing probationary licenses.

Increased monitoring and enforcement activities could be conducted by the department and/or county program staff. If enforcement activity is conducted solely by department staff,

Chapter VI

Program Effectiveness

additional staff activity will be needed. Current county Junk Vehicle Program budgets provide funds for monitoring and enforcement. Junk vehicle funds are provided for county program administration which includes enforcement activities pertaining to wrecking facilities. Twenty-four county programs spend more than 20 percent of total program expenditures on administration and enforcement. If counties do not assist with monitoring and enforcement, then these funds could be used to provide for additional enforcement by department staff. Statutory clarification may be needed if county staff are going to assist with monitoring and enforcement of wrecking facilities.

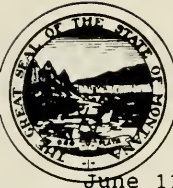
Concerns noted with non-compliance at county motor vehicle graveyards can be addressed through increased department enforcement activity. The department has approval authority over county junk vehicles program budgets and expenditures and should exercise this authority to obtain compliance. Timely department inspections of motor vehicle graveyards would also help ensure compliance.

Current statutory authority regarding control of junk vehicles does not address junk vehicles outside of wrecking facilities and county motor vehicle graveyards. We found county monitoring and enforcement of other junk vehicles varies among the counties visited. If department and county staff are to regulate less than four junk vehicles at one location, clear statutory authority is needed.

Our current audit indicates enforcement activities have shown little improvement since our office conducted a performance audit survey of the Solid Waste Management Bureau in 1983. Corrective action by the Department of Health and Environmental Sciences should improve overall effectiveness of the Junk Vehicle Program.

Agency Response

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2806

HELENA, MONTANA 59620

June 11, 1990

RECEIVED

JUN 13 1990

Montana Department of Health and Environmental Sciences

Mr. Scott A. Seacat
Legislative Auditor
Room 135, State Capitol
Helena, MT 59620

Dear Mr. Seacat:

The Department of Health and Environmental Sciences (DHES) has reviewed the June 1990 performance audit report for the Motor Vehicle Recycling and Disposal Program. The Department believes that this program is a valuable service to the State of Montana and its citizens and is dedicated to do what is feasible to improve and better the program. Our responses to your recommendations are as follows:

RECOMMENDATION #1

We recommend the department enforce county motor vehicle graveyard compliance through the budget approval process.

AGENCY RESPONSE

We concur. Some of the county motor vehicle graveyards are beginning to experience the effects of time on their shielding since they were established in the mid 1970's. Shielding violations noted by department staff during a county motor vehicle graveyard inspection have always been brought to the attention of the local program director and the county commissioners. Each time a violation is noted the county is requested to correct the problems. In the past many county program directors and county commissioners have been reluctant to reduce the money devoted to hauling junk vehicles in order to gain the money needed to repair their graveyard shielding.

Beginning with the new budget period starting on July 1st of this year, the department will inform the county programs to review their graveyard shielding needs and budget the funds necessary for repairs or upgrades.

RECOMMENDATION #2

We recommend the department develop and require use of standard inventory procedures and release of vehicle ownership forms by the counties.

AGENCY RESPONSE

We concur. The inventory records that counties are required to keep on junk vehicle graveyards are identical from county to county. Each year during budget reviews the department staff notify counties of any inadequacies in the county's inventory records. Similarly, the counties are notified of any inventory problems when county junk vehicle graveyard inspections are performed by the department. As mentioned in the report we believe that high county staff turnover along with county program modifications have resulted in many of the problems seen.

The department has already developed a draft of a standard release of ownership form to be used by the counties and intends to distribute the finalized document with this year's funding letters. Additionally, the department intends to develop a written, step by step, inventory procedure document to be released to the counties during the next training seminar this fall.

RECOMMENDATION #3

We recommend the department revise contract specifications and procedures to ensure that the state is reimbursed for all recycled vehicles.

AGENCY RESPONSE

We concur. The department believes that the current invitation for bid (IFB) process has not resulted in the monetary losses that are estimated in the report. The department records for past years indicate that the contractors are anticipating the additional vehicles when submitting their bids. In many cases these bids are on par with the going per ton prices for that same period. Also it is common practice for contractors to call the department during the bidding process to obtain the average number of vehicles hauled weekly for each county involved in the bid. However, the department does see where the current procedures

could give rise to the problems noted. To eliminate these potential problems the department has already proposed changes to our bidding and contract procedures which will allow the department to be reimbursed for any additional vehicles added to a crushing contract. Currently these changes are under review by our legal division and should be in place before the 1991 crushing season.

RECOMMENDATION #4

We recommend the department seek legislative clarification of statutes pertaining to state and county enforcement responsibilities.

AGENCY RESPONSE

We concur. The department will seek legislative clarification of the statutes pertaining to state and county enforcement responsibilities during the 1991 Legislative Session.

RECOMMENDATION #5

We recommend the department:

- A. Actively enforce statutes and administrative rules.
- B. Establish controls to ensure compliance concerns are identified, monitored and resolved.
- C. Implement a data processing system to document enforcement and compliance status.

AGENCY RESPONSE

- A. We conditionally concur. It has not been the policy of the Department of Health and Environmental Sciences to take a hard line approach to first time violations of the junk vehicle program when cooperation and persuasion will bring about compliance. Since 1986 the program has had three different program officers. Each officer has attempted to work with violators in their own way or style hoping to bring about compliance. Regrettably, this has resulted in some of the on going noncompliance problems noted in the report. Now that the program has a program officer that has been actively involved in the program for the last three years, we do not envision any further delays in the pursuit of compliance at motor

vehicle wrecking facilities. With the proposed clarification of the statutes as detailed in this report and with increased involvement and training of county personnel we believe that the statutes and administrative rules of the program will be more actively enforced by both the department's staff and local county programs.

- B. We concur. Through legislative clarification of the Act, increased training and involvement of county staff and the use of the program's new facility tracking system the department will be able to quickly identify violations and follow compliance activities through to a final resolution.
- C. We concur. The data processing system to document enforcement and compliance status for both motor vehicle wrecking facilities and county motor vehicle graveyards has been fully expanded and updated and in use for several months.

RECOMMENDATION #6

We recommend the department implement administrative rules to allow for the issuance of probationary motor vehicle wrecking facility licenses.

AGENCY RESPONSE

We conditional concur. The department is unsure at this time whether current statutes will allow the issuance of probationary licenses without conflicts with other requirements. With the assistance of the department's legal staff we will explore the possibility of issuing probationary or temporary motor vehicle wrecking facility licenses along with other options that would provide the department with the ability to pursue compliance without issuing a full years' license to a facility.

RECOMMENDATION #7

We recommend the department develop a report which would periodically provide information pertaining to motor vehicle wrecking facility enforcement status to county level staff.

AGENCY RESPONSE

We concur. A report detailing the current licensing and enforcement status for each motor vehicle wrecking facility in each individual county has already been developed and sent to the appropriate county junk vehicle program directors. These reports will be issued to the counties in the spring and fall of each year to assist them in tracking their motor vehicle wrecking facilities.

RECOMMENDATION #8

We recommend the department establish specific documented goals and objectives for the Junk Vehicle Program and conduct periodic reviews to determine attainment of the goals.

AGENCY RESPONSE

We concur. Over the years the Junk Vehicle Program has had goals and objectives established. Unfortunately, the goals and objectives were not well documented. The department will work toward establishing specific documented goals and objectives for the program during the coming year and will be certain to include the findings and recommendations of this report as a part of those goals. We envision establishing an annual review of these goals to determine attainment and provide for modification of goals as needed.

RECOMMENDATION #9

We recommend the department develop specific policies and procedures for the Junk Vehicle Program.

AGENCY RESPONSE

We concur. As indicated in the report the Junk Vehicle Program did not originally establish program policies and procedures to allow the county programs the latitude of establishing their own procedures to fit in with the design of their individual program. However, the department did guide these programs toward the intent of the statutes and administrative rules. As the department and county duties are clarified by the legislature and as staff time permits, the department will establish specific policies and procedures for use by both the county and state program personnel.

RECOMMENDATION #10

We recommend the department provide additional training to county Junk Vehicle Program staff.

AGENCY RESPONSE

We concur. It has always been a policy of the department staff to provide as much training of county personnel as possible. As new personnel enter the program, the department's staff have always worked with them on a one to one basis soon after beginning. The staff has also provided continual training for county personnel whenever they visit that county. As stated in your report the department believes

that the past training seminars put on by the department's staff have been beneficial and well received. It is a goal of the department to continue these formal training seminars on a biennial basis.

RECOMMENDATION #11

We recommend the department conduct timely inspections of county motor vehicle graveyards.

AGENCY RESPONSE

We concur. In the past the limitations of the department's staff have mandated that their time be spent pursuing compliance problems at more visible motor vehicle wrecking facilities for which public complaints had been received. As a result the county motor vehicle graveyard inspections were given a low priority. However, with the proposed legislative clarification of county program responsibilities and with increased involvement of the counties in the monitoring and enforcement at motor vehicle wrecking facilities, the department's staff will be able to give county motor vehicle graveyards a higher priority and increase inspections of these facilities.

RECOMMENDATION #12

We recommend the department:

- A. Seek legislative clarification of statutory provisions pertaining to regulation of less than four junk vehicles in one location; or,
- B. Delete administrative rules pertaining to regulation of less than four junk vehicles.

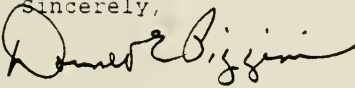
AGENCY RESPONSE

- A. We concur. The department believes that when the Montana Motor Vehicle Recycling and Disposal Act was enacted in 1973, it was the intent of the legislature to provide controls on less than four junk vehicles in locations other than motor vehicle wrecking facilities and county motor vehicle graveyards. We believe that the current statutory wording is evidence of that fact. Also, the fact that the administrative rules that pertain to these junk vehicle have been upheld many times in various Montana courts would seem to indicate that Montana's judicial system would agree. It has only been in recent years that the vagueness of the statute's wording has come under question. In order to improve the program's effectiveness and remove any doubts about the authority

of the department to regulate less than four junk vehicles, we will seek legislative clarification of the appropriate statutory provisions during the 1991 Legislative Session.

- B. We do not concur. As mentioned in the department's response to part A of this recommendation we believe that the legislature fully intended for the department to regulate less than four junk vehicles in one location. To remove all administrative rules that pertain to this situation without legislative direction would be a disservice to the people of Montana.

Sincerely,

A handwritten signature in dark ink, appearing to read "Donald E. Pizzini", written in a cursive style.

Donald E. Pizzini
Director

